

AMENDED IN ASSEMBLY MAY 12, 2003
AMENDED IN ASSEMBLY APRIL 24, 2003
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AMENDED IN ASSEMBLY MARCH 17, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 212

Introduced by Assembly Member Maze
(Coauthors: Assembly Members Corbett, Daucher, and Goldberg)

January 29, 2003

An act to amend Sections 22134.5, 22714, 24203.5, 24203.6, 24209, 24209.3, 24211, 24212, 24213, 24216, 44929, and 87488 of, and to add and repeal Sections 22714.5, 44929.1, and 87488.1 of, the Education Code, relating to state teachers' retirement, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 212, as amended, Maze. State teachers' retirement: retirement incentive.

Existing law authorized a member of the Defined Benefit Program of the State Teachers' Retirement Plan to receive an additional 2 years of service credit if the member's employer took a specified formal action, prior to January 1, 1999, encouraging its employees to retire; the member retired within the period designated in that formal action; and other conditions existed.

This bill would authorize those members *to receive credit for an additional 2 years of service if the member's employer takes a specified*

formal action, or, upon the making of a specified certification by their employer and pursuant to the terms of a memorandum of understanding or a specified formal action, to receive credit for an additional 4 years of service if those members retire within a designated period, prior to January 1, 2005, and other conditions are met.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 22134.5 of the Education Code is*
2 *amended to read:*

3 22134.5. (a) Notwithstanding Section 22134, “final
4 compensation” means the highest average annual compensation
5 earnable by a member during any period of 12 consecutive months
6 while an active member of the Defined Benefit Program or time
7 during which he or she was not a member but for which the
8 member has received credit under the Defined Benefit Program,
9 except time that was so credited for service performed outside this
10 state prior to July 1, 1944. The last consecutive 12-month period
11 of employment shall be used by the system in determining final
12 compensation unless designated to the contrary in writing by the
13 member.

14 (b) For purposes of this section, periods of service separated by
15 breaks in service may be aggregated to constitute a period of 12
16 consecutive months, if the periods of service are consecutive
17 except for the breaks.

18 (c) The determination of final compensation of a member who
19 has concurrent membership in another retirement system pursuant
20 to Section 22115.2 shall take into consideration the compensation
21 earnable while a member of the other system, provided that all of
22 the following exist:

23 (1) The member was in state service or in the employment of
24 a local school district or a county superintendent of schools.

25 (2) Service under the other system was not performed
26 concurrently with service under the Defined Benefit Program.

27 (3) Retirement under the Defined Benefit Program is
28 concurrent with the member’s retirement under the other system.



(d) The compensation earnable for the first position in which California service was credited shall be used when additional compensation earnable is required to accumulate three consecutive years for the purpose of determining final compensation under Section 23805.

(e) If a member has received service credit for part-time service performed prior to July 1, 1956, the member's final compensation shall be adjusted for that service in excess of one year by the ratio that part-time service bears to full-time service.

(f) The board may specify a different final compensation with respect to disability allowances, disability retirement allowances, family allowances, and children's portions of survivor benefit allowances payable on and after January 1, 1978. The compensation earnable for periods of part-time service shall be adjusted by the ratio that part-time service bears to full-time service.

(g) This section shall only apply to a member who has 25 or more years of credited service, excluding service credited pursuant to Section 22714, 22714.5, 22715, 22717, or 22826, but including any credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652. This section also shall apply to a nonmember spouse, if the member had at least 25 years of credited service, excluding service credited pursuant to Section 22714, 22714.5, 22715, 22717, or 22826, on the date the parties separated, as established in the judgment or court order pursuant to Section 22652.

SEC. 2. Section 22714 of the Education Code is amended to read:

22714. (a) Whenever the governing board of a school district or a community college district or a county office of education, by formal action ~~taken prior to January 1, 1999~~, determines pursuant to Section 44929 or 87488 that because of impending curtailment of or changes in the manner of performing services, the best interests of the district or county office of education would be served by encouraging certificated employees or academic employees to retire for service and that the retirement will either: result in a net savings to the district or county office of education; result in a reduction of the number of certificated employees or academic employees as a result of declining enrollment; or result in the retention of certificated employees who are credentialed to

1 teach in, or faculty who are qualified to teach in, teacher shortage
2 disciplines, including, but not limited to, mathematics and science,
3 an additional two years of service credit shall be granted under this
4 part to a member of the Defined Benefit Program if all of the
5 following conditions exist:

6 (1) The member is credited with five or more years of service
7 credit and retires for service under the provisions of Chapter 27
8 (commencing with Section 24201) during a period of not more
9 than 120 days or less than 60 days, commencing no sooner than the
10 effective date of the formal action of the employer that shall
11 specify the period.

12 (2) The employer transfers to the retirement fund an amount
13 determined by the Teachers' Retirement Board to equal the
14 actuarial equivalent of the difference between the allowance the
15 member receives after receipt of service credit pursuant to this
16 section and the amount the member would have received without
17 the service credit and an amount determined by the Teachers'
18 Retirement Board to equal the actuarial equivalent of the
19 difference between the purchasing power protection supplemental
20 payment the member receives after receipt of service credit
21 pursuant to this section and the amount the member would have
22 received without the service credit. The payment for purchasing
23 power shall be deposited in the Supplemental Benefit Maintenance
24 Account established by Section 22400 and shall be subject to
25 Section 24415. The transfer to the retirement fund shall be made
26 in a manner, and time period not to exceed four years, that is
27 acceptable to the Teachers' Retirement Board. The employer shall
28 transfer the required amount for all eligible employees who retire
29 pursuant to this section.

30 (3) The employer transmits to the retirement fund the
31 administrative costs incurred by the system in implementing this
32 section, as determined by the Teachers' Retirement Board.

33 (4) The employer has considered the availability of teachers or
34 academic employees to fill the positions that would be vacated
35 pursuant to this section.

36 (b) (1) The school district shall demonstrate and certify to the
37 county superintendent that the formal action taken would result in
38 either: (A) a net savings to the district; (B) a reduction of the
39 number of certificated employees as a result of declining
40 enrollment, as computed pursuant to Section 42238.5; or (C) the

1 retention of certificated employees who are credentialed to teach
2 in teacher shortage disciplines.

3 (2) The county superintendent shall certify to the Teachers'
4 Retirement Board that a result specified in paragraph (1) can be
5 demonstrated. The certification shall include, but not be limited to,
6 the information specified in subdivision (b) of Section 14502. A
7 district that qualifies under subparagraph (B) of paragraph (1)
8 shall also certify that it qualifies as a declining enrollment district
9 as computed pursuant to Section 42238.5.

10 (3) The school district shall reimburse the county
11 superintendent for all costs to the county superintendent that result
12 from the certification.

13 (c) (1) The county office of education shall demonstrate and
14 certify to the Superintendent of Public Instruction that the formal
15 action taken would result in either: (A) a net savings to the county
16 office of education; (B) a reduction of the number of certificated
17 employees as a result of declining enrollment; or (C) the retention
18 of certificated employees who are credentialed to teach in teacher
19 shortage disciplines.

20 (2) The Superintendent of Public Instruction shall certify to the
21 Teachers' Retirement Board that a result specified in paragraph (1)
22 can be demonstrated. The certification shall include, but not be
23 limited to, the information specified in subdivision (b) of Section
24 14502.

25 (3) The Superintendent of Public Instruction may request
26 reimbursement from the county office of education for all
27 administrative costs that result from the certification.

28 (d) (1) The community college district shall demonstrate and
29 certify to the chancellor's office that the formal action taken would
30 result in either: (A) a net savings to the district; (B) a reduction in
31 the number of academic employees as a result of declining
32 enrollment, as computed pursuant to subdivision (c) of Section
33 84701; or (C) the retention of faculty who are qualified to teach in
34 teacher shortage disciplines.

35 (2) The chancellor shall certify to the Teachers' Retirement
36 Board that a result specified in paragraph (1) can be demonstrated.
37 The certification shall include, but not be limited to, the
38 information specified in subdivision (c) of Section 84040.5. A
39 community college district that qualifies under subparagraph (B)
40 of paragraph (1) of subdivision (b) of this section shall also certify

1 that it qualifies as a declining enrollment district as computed
2 pursuant to subdivision (c) of Section 84701.

3 (3) The chancellor may request reimbursement from the
4 community college for all administrative costs that result from the
5 certification.

6 (e) The opportunity to be granted service credit pursuant to this
7 section shall be available to all members employed by the school
8 district, community college district, or county office of education
9 who meet the conditions set forth in this section.

10 (f) The amount of service credit shall be two years.

11 (g) Any member of the Defined Benefit Program who retires
12 under this part for service under the provisions of Chapter 27
13 (commencing with Section 24201) with service credit granted
14 under this section and who subsequently reinstates shall forfeit the
15 service credit granted under this section.

16 (h) This section shall not be applicable to any member
17 otherwise eligible if the member receives any unemployment
18 insurance payments arising out of employment with an employer
19 subject to this part during a period extending one year beyond the
20 effective date of the formal action, or if the member is not
21 otherwise eligible to retire for service.

22 *SEC. 3.* Section 22714.5 is added to the Education Code, to
23 read:

24 22714.5. (a) ~~Notwithstanding Sections 22714, 44929, and~~
25 ~~87488,~~ *Subject to the limitation of subdivision (b),* an additional
26 four years of service shall be credited under this part to a member
27 of the Defined Benefit Program if the following conditions exist:

28 (1) The member is credited with five or more years of service
29 credit and retires for service under the provisions of Chapter 27
30 (commencing with Section 24201) within the period designated by
31 the employer in the memorandum of understanding *or formal*
32 *action* described in paragraph (3).

33 (2) The employer ~~agrees to transfer~~ *transfers* to the retirement
34 fund an amount determined by the Teachers' Retirement Board to
35 equal the actuarial equivalent of the difference between the
36 allowance the member receives after receipt of the credit for
37 additional service pursuant to this section and the amount the
38 member would have received without the additional credit and an
39 amount determined by the Teachers' Retirement Board to equal
40 the actuarial equivalent of the difference between the purchasing

power protection supplemental payment the member receives after receipt of the credit for additional service pursuant to this section and the amount the member would have received without the additional credit. The payment for purchasing power shall be deposited in the Supplemental Benefit Maintenance Account established by Section 22400 and shall be subject to Section 24415. The transfer to the retirement fund may be made in installments commencing 12 months after the date of the memorandum of understanding *or formal action* described in paragraph (3) ~~and continuing over a period of eight years, or in any other manner and time period acceptable to the employer and in a manner and time period, not to exceed 8 years, acceptable to the~~ Teachers' Retirement Board.

(3) This section has been made applicable to the employer and the member pursuant to a memorandum of understanding between the employer and the representative employee organization *or, if there is no representative employee organization, this section has been made applicable to all of the members employed by the school district, community college district, or county office of education, pursuant to a formal action of the governing board. The employer shall transfer the required amount for all eligible employees who retire pursuant to this section.*

(4) *The employer transmits to the retirement fund the administrative costs incurred by the system in implementing this sections, as determined by the Teachers' Retirement Board.*

(5) The school district has certified to the county superintendent, the county office of education has certified to the Superintendent of Public Instruction, or the community college district has certified to the chancellor's office that application of this section will result in either: (A) a net savings to the school district, county office of education, or community college district; (B) a reduction of the number of certificated or academic employees as a result of declining enrollment; or (C) the retention of certificated or academic employees who are credentialed or qualified to teach in teacher shortage disciplines.

(b) The amount of additional service credit shall be four years regardless of credited service or age. *A member of a Defined Benefit Program who is credited with additional age and service under this section may not be credited with additional service under Section 22714.*

(c) Any member of the Defined Benefit Program who is credited with additional service under this section and who subsequently reinstates from retirement shall forfeit the additional credit granted under this section.

(d) This section is not applicable to any member otherwise eligible if the member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the effective date of the memorandum of understanding, or if the member is not otherwise eligible to retire for service without the additional service credit available under this section.

(e) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

~~SEC. 2.~~

SEC. 4. Section 24203.5 of the Education Code is amended to read:

24203.5. (a) The percentage of final compensation used to compute the allowance pursuant to Section 24202.5, 24203, or 24205 of a member retiring on or after January 1, 1999, who has 30 or more years of credited service, excluding service credited pursuant to Sections 22714, 22714.5, 22715, 22717, and 22717.5, shall be increased by two-tenths of 1 percentage point, provided that the sum of the percentage of final compensation used to compute the allowance in Section 24202.5, 24203, or 24205, including any adjustments for retiring before the normal retirement age, and the additional percentage provided by this section does not exceed 2.40 percent. For purposes of establishing eligibility for the increased allowance pursuant to this section only, credited service shall include credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652. A nonmember spouse shall also be eligible for the increased allowance pursuant to this section if the member had 30 or more years of credited service on the date the parties separated, as established in the judgment or court order pursuant to Section 22652.

(b) Nonqualified service credit for which contributions pursuant to Section 22826 were made in a lump sum on or after January 1, 2000, or for which the first installment was made on or

after January 1, 2000, shall not be included in determining the eligibility for an increased allowance pursuant to this section.

(c) The amendments made to subdivision (a) in the first year of the 1999–2000 Regular Session are declaratory of existing law.

SEC. 5. Section 24203.6 of the Education Code is amended to read:

24203.6. (a) In addition to the amount otherwise payable pursuant to Sections 24202.5, 24203, 24203.5, 24205, 24209.5, 24210, 24211, and 24212, a member who (1) retires for service on or after January 1, 2001, (2) has, prior to January 1, 2011, 30 or more years of credited service, excluding service credited pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826 but including any credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652, and (3) is receiving an allowance subject to Section 24203.5, shall receive a monthly increase in the allowance, prior to any modification pursuant to Sections 24300 and 24309, in the amount identified in the following schedule for the number of years of the member’s credited service at the time of retirement, excluding service credited pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826 but including any credited service that a court has ordered be awarded to a nonmember spouse pursuant to Section 22652:

30 years of credited service	\$200
31 years of credited service	\$300
32 or more years of credited service	\$400

(b) This section also shall apply to a nonmember spouse, if the member is eligible for the allowance increase pursuant to subdivision (a) upon his or her retirement for service and had at least 30 years of credited service, excluding service credited pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826, on the date the parties separated, as established in the judgment or court order pursuant to Section 22652 and the service credit of the member was divided into separate accounts in the name of the member and the nonmember spouse by a court pursuant to Section 22652. The amount identified in the schedule in subdivision (a) and payable pursuant to this section, that is based on the service credited during the marriage, shall be divided and

1 paid to the member and the nonmember spouse proportionately
2 according to the respective percentages of the member's service
3 credit that were allocated to the member and the nonmember
4 spouse in the court's order.

5 (c) The allowance increase provided under this section shall
6 not be subject to Sections 24415 and 24417, but shall be subject
7 to Section 22140.

8 *SEC. 6. Section 24209 of the Education Code is amended to*
9 *read:*

10 24209. (a) Upon retirement for service following
11 reinstatement, the member shall receive a service retirement
12 allowance equal to the sum of both of the following:

13 (1) An amount equal to the monthly allowance the member was
14 receiving immediately preceding reinstatement, exclusive of any
15 amounts payable pursuant to Section 22714, 22714.5, or 22715,
16 increased by the improvement factor that would have been applied
17 to the allowance if the member had not reinstated.

18 (2) An amount calculated pursuant to Section 24202, 24202.5,
19 24203, 24203.5, or 24206 on service credited subsequent to the
20 most recent reinstatement, the member's age at retirement, and
21 final compensation.

22 (b) If the total amount of credited service, other than that
23 accrued pursuant to Sections 22714, 22714.5, 22715, 22717,
24 22717.5, and 22826, is equal to or greater than 30 years, the
25 amounts identified in paragraphs (1), for members who initially
26 retired on or after January 1, 1999, and (2) of subdivision (a) shall
27 be calculated pursuant to Section 24203.5.

28 (c) If the total amount of credited service, other than that
29 accrued pursuant to Sections 22714, 22714.5, 22715, 22717,
30 22717.5, and 22826, is equal to or greater than 30 years, upon
31 retirement for service following reinstatement, a member who
32 retired pursuant to Section 24213, and received the terminated
33 disability allowance for the prior retirement, shall receive a service
34 retirement allowance equal to the sum of the following:

35 (1) An amount based on the service credit accrued prior to the
36 effective date of the disability allowance, the member's age at the
37 prior retirement increased by the factor provided in Section
38 24203.5, and projected final compensation.

39 (2) An amount calculated pursuant to Section 24202, 24202.5,
40 24203.5, or 24206 on service credited subsequent to the

1 reinstatement, the member's age at retirement, and final
2 compensation.

3 *SEC. 7. Section 24209.3 of the Education Code is amended to*
4 *read:*

5 24209.3. (a) Notwithstanding subdivision (a) of Section
6 24209 and subdivision (d) of Section 24204, and exclusive of any
7 amounts payable during the prior retirement for service pursuant
8 to Section 22714, 22714.5, or 22715:

9 (1) A member who retired, other than pursuant to Section
10 24210, 24211, 24212, or 24213, and who reinstates and performs
11 creditable service, as defined in Section 22119.5, after the most
12 recent reinstatement, in an amount equal to two or more years of
13 credited service, shall, upon retirement for service on or after the
14 effective date of this section, receive a service retirement
15 allowance equal to the sum of the following:

16 (A) An amount calculated pursuant to this chapter based on
17 credited service performed prior to the most recent reinstatement,
18 using the member's age at the subsequent service retirement, from
19 which age shall be deducted the total time during which the
20 member was retired for service, and final compensation.

21 (B) An amount calculated pursuant to this chapter based on
22 credited service performed subsequent to the most recent
23 reinstatement, using the member's age at the subsequent service
24 retirement, and final compensation.

25 (2) A member who retired pursuant to Section 24210 and who
26 reinstates and performs creditable service, as defined in Section
27 22119.5, after the most recent reinstatement, in an amount equal
28 to two or more years of credited service, shall, upon retirement for
29 service on or after the effective date of this section, receive a
30 service retirement allowance equal to the sum of the following:

31 (A) An amount calculated pursuant to this chapter based on
32 service credit accrued prior to the effective date of the disability
33 retirement, using the member's age at the subsequent service
34 retirement, from which age shall be deducted the total time during
35 which the member was retired for service, and indexed final
36 compensation to the effective date of the initial service retirement.

37 (B) An amount calculated pursuant to this chapter based on the
38 service credit accrued after termination of the disability
39 retirement, using the member's age at the subsequent service

1 retirement, from which age shall be deducted the total time during
2 which the member was retired for service, and final compensation.

3 (C) An amount calculated pursuant to this chapter based on
4 credited service performed subsequent to the most recent
5 reinstatement, using the member's age at the subsequent service
6 retirement, and final compensation.

7 (3) A member who retired pursuant to Section 24211 and who
8 reinstates and performs creditable service, as defined in Section
9 22119.5, after the most recent reinstatement, in an amount equal
10 to two or more years of credited service, shall, upon retirement for
11 service on or after the effective date of this section, receive a
12 service retirement allowance equal to the sum of the following:

13 (A) The greater of (i) the disability allowance the member was
14 receiving immediately prior to termination of that allowance,
15 excluding the children's portion, or (ii) an amount calculated
16 pursuant to this chapter based on service credit accrued prior to the
17 effective date of the disability retirement, using the member's age
18 at the subsequent service retirement, from which age shall be
19 deducted the total time during which the member was retired for
20 service, and final compensation using compensation earnable or
21 projected final compensation or a combination of both.

22 (B) An amount equal to either of the following:

23 (i) For a member who was receiving a benefit pursuant to
24 subdivision (a) of Section 24211, the member's credited service at
25 the time of the retirement pursuant to Section 24211, excluding
26 service credited pursuant to Section 22717 or 22717.5 or Chapter
27 14 (commencing with Section 22800) or Chapter 14.2
28 (commencing with Section 22820).

29 (ii) For a member who was receiving a benefit pursuant to
30 subdivision (b) of Section 24211, the member's projected service,
31 excluding service credited pursuant to Section 22717 or 22717.5
32 or Chapter 14 (commencing with Section 22800) or Chapter 14.2
33 (commencing with Section 22820).

34 (C) An amount calculated pursuant to this chapter based on
35 credited service performed subsequent to the most recent
36 reinstatement, using the member's age at the subsequent service
37 retirement, and final compensation using compensation earnable
38 or projected final compensation or a combination of both.

39 (D) An amount based on any service credited pursuant to
40 Chapter 14 (commencing with Section 22800) or Chapter 14.2

(commencing with Section 22820) or, for credited service performed during the most recent reinstatement, Section 22714, 22714.5, 22715, 22717, or 22717.5, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(4) A member who retired pursuant to Section 24212 or 24213 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on the member's projected service credit, excluding service credited pursuant to Section 22717, 22717.5, or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820), using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable or projected final compensation or a combination of both.

(B) An amount calculated pursuant to this chapter based on credited service performed subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, and final compensation, using compensation earnable or projected final compensation or a combination of both.

(C) An amount based on any service credited pursuant to Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or, for credited service performed during the most recent reinstatement, Section 22714, 22714.5, 22715, 22717, or 22717.5, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(b) If the total amount of credited service, other than that accrued pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826, is equal to or greater than the number of years

1 required to be eligible for an increased allowance pursuant to this
2 chapter or Section 22134.5, the amounts identified in this section
3 shall be calculated pursuant to the section authorizing the
4 increased benefit.

5 (c) For members receiving an allowance pursuant to Section
6 24410.5 or 24410.6, the amount payable pursuant to this section
7 shall not be less than the amount payable to the member as of the
8 effective date of reinstatement.

9 (d) The amount payable pursuant to this section shall not be less
10 than the amount that would be payable to the member pursuant to
11 Section 24209.

12 (e) For purposes of determining an allowance increase
13 pursuant to Sections 24415 and 24417, the calendar year of
14 retirement shall be the year of the subsequent retirement if the final
15 compensation used to calculate the allowance pursuant to this
16 section is higher than the final compensation used to calculate the
17 allowance for the prior retirement.

18 (f) The allowance paid pursuant to this section to a member
19 receiving a lump-sum payment pursuant to Section 24221 shall be
20 actuarially reduced to reflect that lump-sum payment.

21 *SEC. 8. Section 24211 of the Education Code is amended to*
22 *read:*

23 24211. When a member who has been granted a disability
24 allowance under this part after June 30, 1972, returns to
25 employment subject to coverage under the Defined Benefit
26 Program and performs:

27 (a) Less than three years of creditable service after termination
28 of the disability allowance, the member shall receive a retirement
29 allowance which is the sum of the allowance calculated on service
30 credit accrued after the termination date of the disability
31 allowance, the age of the member on the last day of the month in
32 which the retirement allowance begins to accrue, and final
33 compensation using compensation earnable and projected final
34 compensation, plus the greater of either of the following:

35 (1) A service retirement allowance calculated on service credit
36 accrued as of the effective date of the disability allowance, the age
37 of the member on the last day of the month in which the retirement
38 allowance begins to accrue, and projected final compensation
39 excluding service credited pursuant to Sections 22717 and
40 22717.5 or Chapter 14 (commencing with Section 22800) or

Chapter 14.2 (commencing with Section 22820), to the termination date of the disability allowance.

(2) The disability allowance the member was receiving immediately prior to termination of that allowance, excluding children's portions.

(b) Three or more years of creditable service after termination of the disability allowance, the member shall receive a retirement allowance that is the greater of the following:

(1) A service retirement allowance calculated on all actual and projected service excluding service credited pursuant to Sections 22717 and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820), the age of the member on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(2) The disability allowance the member was receiving immediately prior to termination of that allowance, excluding children's portions.

(c) The allowance shall be increased by an amount based on any service credited pursuant to Sections 22714, 22714.5, 22715, 22717, and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(d) If the total amount of credited service, other than projected service or service that accrued pursuant to Sections 22714, 22714.5, 22715, 22717, 22717.5, and 22826, is equal to or greater than 30 years, the amounts identified in subdivisions (a) and (b) shall be calculated pursuant to Sections 24203.5 and 24203.6.

SEC. 9. Section 24212 of the Education Code is amended to read:

24212. (a) If a disability allowance granted under this part after June 30, 1972, is terminated for reasons other than those specified in Section 24213 and the member does not return to employment subject to coverage under the Defined Benefit Program, the member's service retirement allowance, when payable, shall be based on projected service, excluding service credited pursuant to Sections 22717 and 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing

1 with Section 22820), projected final compensation, and the age of
2 the member on the last day of the month in which the retirement
3 allowance begins to accrue. The allowance payable under this
4 section, excluding annuities payable from accumulated annuity
5 deposit contributions, shall not be greater than the terminated
6 disability allowance excluding children's portions.

7 (b) The allowance shall be increased by an amount based on
8 any service credited pursuant to Sections 22714, 22714.5, 22715,
9 22717, and 22717.5 or Chapter 14 (commencing with Section
10 22800) or Chapter 14.2 (commencing with Section 22820) and
11 final compensation using compensation earnable, or projected
12 final compensation, or a combination of both.

13 *SEC. 10. Section 24213 of the Education Code is amended to*
14 *read:*

15 24213. (a) When a member who has been granted a disability
16 allowance under this part after June 30, 1972, attains normal
17 retirement age, or at a later date when there is no dependent child,
18 the disability allowance shall be terminated and the member shall
19 be eligible for service retirement. The retirement allowance shall
20 be calculated on the projected final compensation and projected
21 service to normal retirement age, excluding service credited
22 pursuant to Section 22717 or Chapter 14 (commencing with
23 Section 22800) or Chapter 14.2 (commencing with Section
24 22820). The allowance payable under this section, excluding
25 annuities payable from accumulated annuity deposit
26 contributions, shall not be greater than the terminated disability
27 allowance. The allowance shall be increased by an amount based
28 on any service credited pursuant to Section 22714, 22714.5,
29 22715, or 22717 or Chapter 14 (commencing with Section 22800)
30 or Chapter 14.2 (commencing with Section 22820) and projected
31 final compensation to normal retirement age.

32 (b) Upon retirement, the member may elect to modify the
33 service retirement allowance payable in accordance with any
34 option provided under this part.

35 *SEC. 11. Section 24216 of the Education Code is amended to*
36 *read:*

37 24216. (a) (1) A member retired for service under this part
38 who is appointed as a trustee or administrator by the
39 Superintendent of Public Instruction pursuant to Section 41320.1,
40 or a member retired for service who is assigned by a county

1 superintendent of schools pursuant to Article 2 (commencing with
2 Section 42120) of Chapter 6 of Part 24, shall be exempt from
3 subdivisions (d) and (f) of Section 24214 for a maximum period
4 of two years.

5 (2) The period of exemption shall commence on the date the
6 member retired for service is appointed or assigned and shall end
7 no more than two calendar years from that date, after which the
8 limitation specified in subdivisions (d) and (f) of Section 24214
9 shall apply.

10 (3) An exemption under this subdivision shall be granted by the
11 system providing that the Superintendent of Public Instruction or
12 the county superintendent of schools submits documentation
13 required by the system to substantiate the eligibility of the member
14 retired for service for an exemption under this subdivision.

15 (b) (1) A member retired for service under this part who is
16 employed by an employer to perform creditable service in an
17 emergency situation to fill a vacant administrative position
18 requiring highly specialized skills shall be exempt from the
19 provisions of subdivisions (d) and (f) of Section 24214 for
20 creditable service performed up to one-half of the full-time
21 equivalent for that position, if the vacancy occurred due to
22 circumstances beyond the control of the employer. The limitation
23 specified in subdivisions (d) and (f) of Section 24214 shall apply
24 to creditable service performed beyond the specified exemption.

25 (2) An exemption under this subdivision shall be granted by the
26 system subject to the following conditions:

27 (A) The recruitment process to fill the vacancy on a permanent
28 basis is expected to extend over several months.

29 (B) The employment is reported in a public meeting of the
30 governing body of the employer.

31 (C) The employer submits documentation required by the
32 system to substantiate the eligibility of the member retired for
33 service for an exemption under this subdivision.

34 (c) This section does not apply to any person who has received
35 additional service credit pursuant to Section 22715 or 22716.

36 (d) A person who has received additional service credit
37 pursuant to Section 22714 or 22714.5 shall be ineligible for one
38 year from the effective date of retirement for the exemption
39 provided in this section for service performed in the district from
40 which he or she retired.

(e) This section shall become operative on January 1, 2001, and shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2008, deletes or extends that date.

SEC. 12. Section 44929 of the Education Code is amended to read:

44929. (a) Whenever the governing board of a school district or a county office of education, by formal action taken prior to January 1, 1999, determines that because of impending curtailment of or changes in the manner of performing services, the best interests of the district or county office of education would be served by encouraging the retirement of certificated employees and that the retirement will either: result in a net savings to the district or county office of education; result in a reduction of the number of certificated employees as a result of declining enrollment; or result in the retention of certificated employees who are credentialed to teach in teacher shortage disciplines, including, but not limited to, mathematics and science, an additional two years of service shall be credited under the *Defined Benefit Program of the State Teachers' Retirement-Defined Benefit Program Plan* to a certificated employee pursuant to Section 22714 if all of the following conditions exist:

(1) ~~The employee is credited with five or more years of service under the State Teachers' Retirement Defined Benefit Program and retires during a period of not more than 120 days or less than 60 days, commencing no sooner than the effective date of the formal action of the district or county superintendent of schools that shall specify the period.~~

(2) ~~The district or county office of education transmits to the retirement fund an amount determined by the Teachers' Retirement Board that equals the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and Section 22714 and the amount the member would have received without the service credit and an amount determined by the Teachers' Retirement Board that equals the actuarial equivalent of the difference between the purchasing power protection supplemental payment the member receives after receipt of additional service credit pursuant to this section and the amount the member would have received without the additional service credit. The payment for~~

~~purchasing power shall be deposited in the Supplemental Benefit Maintenance Account established by Section 22400 and shall be subject to Sections 24414 and 24415. The transfer to the retirement fund shall be made in a manner, and time period that shall not exceed four years, that is acceptable to the Teachers' Retirement Board. The school district or county office of education shall make the payment with respect to all eligible employees who retired pursuant to this section and Section 22714.~~

~~(3) The district or county office of education transmits to the retirement fund the administrative costs incurred by the State Teachers' Retirement System in implementing this section, as determined by the Teachers' Retirement Board.~~

~~(4) The governing board of the school district or the county office of education has considered the availability of teachers to fill the positions that would be vacated pursuant to this section.~~

~~(b) (1) The school district shall demonstrate and certify to the county superintendent that the formal action taken would result in either: (A) a net savings to the district; (B) a reduction of the number of certificated employees as a result of declining enrollment, as computed pursuant to Section 42238.5; or (C) the retention of certificated employees who are credentialed to teach in teacher shortage disciplines.~~

~~(2) The county superintendent shall certify to the Teachers' Retirement Board that a result specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to, the information specified in subdivision (b) of Section 14502. A district that qualifies under clause (B) of paragraph (1) shall also certify that it qualifies as a declining enrollment district as computed pursuant to Section 42238.5.~~

~~(3) The school district shall reimburse the county superintendent for all the costs of the county superintendent that result from the certification.~~

~~(c) (1) The county office of education shall demonstrate and certify to the Superintendent of Public Instruction that the formal action taken would result in either: (A) a net savings to the county office of education; (B) a reduction of the number of certificated employees as a result of declining enrollment; or (C) the retention of certificated employees who are credentialed to teach in teacher shortage disciplines.~~

~~(2) The Superintendent of Public Instruction shall certify to the Teachers' Retirement Board that a result specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to, the information specified in subdivision (b) of Section 44502.~~

~~(3) The Superintendent of Public Instruction may request reimbursement from the county office of education for all administrative costs that result from the certification.~~

~~(d) The service credit made available pursuant to this section shall be available to all members employed by the school district or county office of education who meet the conditions set forth in this section.~~

~~(e) The amount of service credit shall be two years.~~

~~(f) Any employee who retires with service credit granted under this section and Section 22714 and who subsequently reinstates, shall forfeit the service credit granted under this section and Section 22714.~~

~~(g) This section shall not be applicable to any employee otherwise eligible if the employee receives any unemployment insurance payments arising out of employment with an employer subject to Part 13 (commencing with Section 22000) during a period extending one year beyond the effective date of the formal action, or if the employee is not otherwise eligible to retire for service under the State Teachers' Retirement Defined Benefit Program set forth in that section exist.~~

SEC. 13. Section 44929.1 is added to the Education Code, to read:

44929.1. (a) ~~Notwithstanding Section 44929, Subject to the limitation of subdivision (b),~~ an additional four years of service shall be credited under the Defined Benefit Program of the State Teachers' Retirement Plan to a certificated employee pursuant to Section 22714.5 if all of the conditions set forth in that section are satisfied.

(b) *A member of the Defined Benefit Program of the State Teachers' Retirement Plan who is credited with additional age and service under this section may not be credited with additional service under Section 22714.*

(c) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

~~SEC. 3.~~

SEC. 14. *Section 87488 of the Education Code is amended to read:*

87488. (a) Whenever the governing board of a community college district, by formal action taken prior to January 1, 1999, determines that because of impending curtailment of or changes in the manner of performing services, the best interests of the district would be served by encouraging the retirement of academic employees and that the retirement will either: result in a net savings to the district; result in a reduction of the number of academic employees as a result of declining enrollment; or result in the retention of faculty who are qualified to teach in areas of teacher shortage, including, but not limited to, mathematics and science, an additional two years of service shall be credited under the *Defined Benefit Program of the State Teachers' Retirement Defined Benefit Program Plan* to an academic employee pursuant to Section 22714 if all of the following conditions exist:

(1) ~~The employee is credited with five or more years of service under the State Teachers' Retirement Defined Benefit Program and retires during a period not more than 120 days or less than 60 days, commencing no sooner than the effective date of the formal action of the district that shall specify the period.~~

(2) ~~The governing board transmits to the retirement fund an amount determined by the Teachers' Retirement Board that equals the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and Section 22714 and the amount the member would have received without the service credit and an amount determined by the Teachers' Retirement Board that equals the actuarial equivalent of the difference between the purchasing power protection supplemental payment the member receives after receipt of additional service credit pursuant to this section and the amount the member would have received without the additional service credit. The payment for purchasing power shall be deposited in the Supplemental Benefit Maintenance Account established by Section 22400 and shall be subject to Sections 24414 and 24415. The transfer to the retirement fund shall be made in a manner and in a time period that shall not exceed four years, that is acceptable to the Teachers' Retirement Board. The community college district shall make the payment with respect to~~

~~all eligible employees who retired pursuant to this section and Section 22714.~~

~~(3) The governing board transmits to the retirement fund the administrative costs incurred by the State Teachers' Retirement System in implementing this section, as determined by the Teachers' Retirement Board.~~

~~(4) The governing board of the community college district has considered the availability of academic employees to fill the positions that would be vacated pursuant to this section.~~

~~(b) (1) The community college district shall demonstrate and certify to the chancellor's office that the formal action taken would result in either: (A) a net savings to the district; (B) a reduction in the number of academic employees as a result of declining enrollment, as computed pursuant to subdivision (c) of Section 84701; or (C) the retention of faculty who are qualified to teach in teacher shortage disciplines.~~

~~(2) The chancellor shall certify to the Teachers' Retirement Board that the results specified in paragraph (1) can be demonstrated. The certification shall include, but not be limited to, the information specified in subdivision (c) of Section 84040.5. A community college district that qualifies under clause (B) of paragraph (1) shall also certify that it qualifies as a declining enrollment district as computed pursuant to subdivision (c) of Section 84701.~~

~~(3) The chancellor may request reimbursement from the community college district for all administrative costs that result from the certification.~~

~~(e) The service credit made available pursuant to this section shall be available to all members employed by the community college district who meet the conditions set forth in this section.~~

~~(d) The amount of service credit shall be two years.~~

~~(e) Any employee who retires with service credit granted under this section and Section 22714 and subsequently reinstates, shall forfeit the service credit granted under this section and Section 22714.~~

~~(f) This section shall not be applicable to any employee otherwise eligible if the employee receives any unemployment insurance payments arising out of employment with an employer subject to Part 13 (commencing with Section 22000) during a period extending one year beyond the effective date of the formal~~

1 ~~action, or if the employee is not otherwise eligible to retire for~~
2 ~~service under the State Teachers' Retirement Defined Benefit~~
3 ~~Program set forth in that section exist.~~

4 SEC. 15. Section 87488.1 is added to the Education Code, to
5 read:

6 87488.1. ~~Notwithstanding Section 87488,~~ *Subject to the*
7 *limitation of subdivision (b),* an additional four years of service
8 shall be credited under the Defined Benefit Program of the State
9 Teachers' Retirement Plan to an academic employee pursuant to
10 Section 22714.5 if all of the conditions set forth in that section are
11 satisfied.

12 (b) *A member of the Defined Benefit Program of the State*
13 *Teachers' Retirement Plan who is credited with additional age and*
14 *service under this section may not be credited with additional*
15 *service under Section 22714.*

16 (c) This section shall remain in effect only until January 1,
17 2005, and as of that date is repealed, unless a later enacted statute,
18 that is enacted before January 1, 2005, deletes or extends that date.

19 ~~SEC. 4.~~

20 SEC. 16. This act is an urgency statute necessary for the
21 immediate preservation of the public peace, health, or safety
22 within the meaning of Article IV of the Constitution and shall go
23 into immediate effect. The facts constituting the necessity are:

24 In order to realize the economies resulting from the early
25 retirement of certificated and academic employees of public
26 schools and community colleges and to thereby ameliorate the
27 budget shortfall in the 2003–04 fiscal year, it is necessary that this
28 act take effect immediately.